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# Written statement* submitted by Americans for Democracy and Human Rights in Bahrain, Inc., a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[26 January 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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# Abuse of the Judicial System in Bahrain

On the occasion of the 37th session of the United Nations Human Rights Council, Americans for Democracy & Human Rights in Bahrain (ADHRB) would like to highlight the erosion of human rights in Bahrain, particularly as it relates to the judicial system. ADHRB would like to raise serious concerns that the Government of Bahrain has failed in its international legal obligations to uphold fair trial rights and ensure due process, equal protection of the law, presumption of innocence, and impartiality of the judiciary.

2017 was a notable year for the judicial system in Bahrain – the government amended the constitution to allow for the trial of civilians before the military courts, the first trial of which concluded with six death sentences and the stripping of nationality of 13 Bahraini citizens. Bahrain sentenced a total of 14 individuals to the death penalty in 2017 alone. The government has also continued to issue arbitrary revocations of citizenship after unfair trials, and continues to abuse the human rights of its citizens under the guise of a "justice" system.

**Military Trial of Civilians**

In 2017, Bahrain began the first military trial of civilians since 2011. In Royal Decree No. 18 of 2011, the King declared a national state of emergency following the pro-democracy demonstrations, and established the two-tiered National Safety Court with the Primary Court of National Safety and the National Safety Appellate Court. Both courts consisted of a presiding military judge and two civilian judges. The prosecution was also administered by military officials. The jurisdiction of these courts was limited to three types of cases: (1) crimes that led to the declaration of a State of National Security, (2) crimes in violation of orders implementing national safety measures, and (3) crimes which traditionally are under civilian court but have been transferred to the NSC, including crimes of assault against public officials; illegal weapons or explosives; crimes committed under the anti-terrorism code; violations of the code concerning gatherings, assembly, and marches; and crimes which relate to foreign or local security of the State. The judgments of the NSC were final and not subject to appeal (this was later amended, and some of the cases were appealed to civilian courts, including the Court of Cassation). While the NSCs were in effect, they convicted an estimated 300 individuals.

The cessation of the National Safety Courts was due in part to the recommendation made by the Bahrain Independent Commission of Inquiry that the cases tried under the NSC be reviewed by regularly constituted civilian courts, because "fundamental principles of a fair trial, including prompt and full access to legal counsel and inadmissibility of coerced testimony, were not respected. . ." Under the civilian review of these cases, many of the individuals convicted under the NSC had their sentences reduced or their convictions reversed. All of the individuals sentenced to death under the NSC had their sentences reduced to life in prison or a term of years in prison.

The recent amendment to the constitution allows for even more power of the military over civilians, under markedly different circumstances. In 2011 the NSCs were temporary, and operated only for three months during a declared state of emergency. There has been no such emergency declared for 2017, and no language limiting the duration of military jurisdiction is included in the amendment. Further, the NSC provided for some civilian judicial oversight, by including civilian judges on the court and allowing for civilian judicial review of some of the cases. However, the recent amendment does not provide for civilian oversight or review, does not limit the military court's jurisdiction to particular crimes, and does not elaborate any appellate measures. Indeed, the amendment is so vaguely worded that is essentially gives the military *carte blanche* over any alleged crime in Bahrain.

The language of the constitution before the amendment limited the jurisdiction of military courts to military offenses committed by members of the Bahrain Defense Force (BDF), the National Guard and the Security Forces (with the exception of declared martial law). The new language does not offer the same safeguards, and reads in its entirety:

> "The military judiciary shall be regulated by law, and shall delineate its jurisdiction and competencies with regards to the BDF, the National Guard, and Public Security Forces."

Bahraini officials have stated that the military courts will only concern itself with cases related to terrorism, however no such restriction is included in the text of the amendment. Further, the definition of "terrorism" in Bahraini law is so broad that it can also encapsulate and criminalize freedoms of speech, assembly, and association.[1]

With the amendment in place, the first military trial of civilians began on 23 October 2017. The Bahraini Military High Court tried 18 individuals in the same case, on the charges of forming a terrorist cell and plotting to assassinate a military official. The trial concluded on 25 December 2017, when the Court sentenced six men to death, sentenced seven men to seven years' imprisonment, and acquitted five of the defendants. The 13 men who were convicted were also stripped of their nationality. On 4 January 2018, a military appellate court postponed the appeal to 14 January, and postponed a second time to 31 January.

**Use of the Death Penalty and Increased Number of Death Sentences**

These new death sentences are particularly alarming, as Bahrain recently implemented the death penalty for the first time since 2010. In January 2017, the Government of Bahrain executed Abbas al-Samea, Sami Mushaima, and Ali al-Singace by firing squad. These executions were carried out despite the fact that the men maintained their innocence, and stated that their false confessions had been coerced though torture. The Special Rapporteur on extrajudicial, summary or arbitrary executions Agnes Callamard expressed that these executions constituted extrajudicial killings in a Tweet on the same day.

The death sentences handed down in December 2017 are similarly tainted by allegations that the military officials had tortured some of the defendants to extract confessions. Eight of the defendants were convicted *in absentia*, as they had reportedly fled to Iraq and the Islamic Republic of Iran. Some of the defendants did not meet with a lawyer until their third hearing in November 2017. Additionally, three of the defendants were minors at the time of the alleged crime and their arrest.

The six men sentenced to death on 25 December 2017 join the eight others previously sentenced, bringing the total to 14 individuals sentenced to death in Bahrain in 2017. This is a marked increase from 2016, when no new death sentences had been handed out.

**Denaturalization of Bahraini Citizens**

Another method that the judicial system of Bahrain has employed to punish and intimidate the civilian population is through the arbitrary revocation of citizenship. Bahrain has stripped more than 500 citizens of their nationality since 2012. In 2015 alone, the government denaturalized 208 Bahrainis, the highest number yet. However, 2017 follows close behind, with 156 revocations in that year. In many of these cases, the government denaturalizes individuals in large groups of up to 25 individuals in one proceeding. The cases are often marked with fair trial violations as well, such as failure to follow principles of due process and a lack of transparency. The negative effects of citizenship revocation are numerous, and include loss of access to government benefits, loss of identification card (which is necessary for a number of administrative and official actions, such as opening a bank account), inability to obtain employment, and loss of government housing, among others. Bahraini women cannot pass citizenship to their children, so if their spouse is denaturalized, any new children born are also essentially stateless and have no access to state services.

**Conclusion**

Bahrain's use of the court system to inflict human rights abuses upon its population is exemplary of the kingdom's deteriorating human rights situation. The militarization of the justice system perverts the rule of law and subjects the civilians in Bahrain to human rights violations. The recent death sentences and executions after unfair trials and the

1 For a more details, see ADHRB's previous written statement, [A/HRC/36/NGO/103]

persistent and arbitrary denaturalization of Bahraini citizens serve as further evidence of a judicial system devoid of human rights considerations. Bahrain is in violation of their obligations to the Convention Against Torture, the International Covenant on Civil and Political Rights, and the International Covenant on Economic and Cultural Rights. ADHRB therefore urges the international community to urge Bahrain to:

- Repeal Law No. 12/2017and prohibit the future trial of civilians in military institutions.
- Vacate the judgment of 25 December 2017, and ensure that the cases of those individuals sentenced are subject to review by civilian courts and adhere to international standards of fair trials.
- Reinstate the moratorium on the death penalty, with a view towards abolition.
- Reinstate the citizenship of all Bahrainis arbitrarily denaturalized, and ensure that any future denaturalization proceedings adhere to international standards of fair trials and impartiality.
- Ensure that denaturalized persons and their unregistered children are able to access state services.